

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ELBA M. VIERA LOPEZ,	:	
	:	
Plaintiff,	:	16-CV-2610 (JPO)
	:	
-v-	:	
	:	<u>OPINION AND ORDER</u>
BAYVIEW LOAN SERVICING, LLC, <i>et al.</i> ,	:	
	:	
Defendants.	:	
-----X	:	

J. PAUL OETKEN, District Judge:

Plaintiff Elba M. Viera Lopez filed this action *pro se* on April 7, 2016. (Dkt. No. 1.) Lopez asserted claims under federal consumer protection law, the Real Estate Settlement Procedures Act, the Fair Debt Collection Practices Act, the Truth in Lending Act, and state law. She sought damages as well as declaratory relief that would invalidate Defendants’ interests in her foreclosed residential and rental property and establish that she holds the property free of any encumbrances.

On April 20, 2016, this Court granted Lopez leave to amend on or before June 20, 2016 because the initial complaint was “insufficient to state a plausible claim for relief.” (Dkt. No. 3 at 3.) On July 14, 2016, Defendants filed a joint letter observing that Lopez had failed to file an amended complaint within the allotted time and asking that the action therefore be dismissed. (Dkt. No. 10.) This Court granted Defendants’ motion. (Dkt. No. 11.) The very same day, Lopez filed a motion seeking an extension, which this Court granted as a motion to reopen the case and a motion for an extension of time to file an amended complaint. (Dkt. No. 13.)

Lopez then filed an amended complaint on August 8, 2016 (Dkt. No. 19), and Defendants, in turn, filed a motion to dismiss (Dkt. No. 21). Four weeks and one day later,

Lopez filed another motion asking for leave to amend or, in the alternative, an extension of time to respond to Defendants' motion. (Dkt. No. 26.)

Defendants argue that Plaintiff's request should be denied because she missed the month-long window to respond to their motion to dismiss. (Dkt. No. 27 at 1.) Additionally, they point to Plaintiff's use of "the same boilerplate reasoning that Plaintiff's prior Motion for Leave to file an Amended Complaint contained" to suggest that "this action is completely frivolous." (*Id.*)

"The Court should freely give leave [to amend] when justice so requires." Fed. R. Civ. Proc. 15(a)(2). *Pro se* submissions, in particular, must be construed liberally and read "to raise the strongest arguments they suggest." *Ortiz v. McBride*, 323 F.3d 191, 194 (2d Cir. 2003). The Court has reviewed the submissions on this motion and finds that justice requires that Lopez have the opportunity to amend her complaint in light of the delays she reports facing. However, the Court is not inclined to grant further extensions or leave to amend absent compelling reasons.

Plaintiff's motion for leave to file an amended complaint is therefore GRANTED. Plaintiff is directed to file a second amended complaint by October 17, 2016.

The Clerk of Court is directed to close the motion at Docket Number 26.

SO ORDERED.

Dated: September 23, 2016  
New York, New York

  
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J. PAUL OETKEN  
United States District Judge

*COPY MAILED TO PRO SE PARTY BY CHAMBERS*